UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/52/645
19 November 1997
ENGLISH
ORIGINAL: ARABIC AND
ENGLISH

Fifty-second session
Agenda item 144

CONVENTION ON JURISDICTIONAL IMMUNITIES OF STATES AND THEIR PROPERTY

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. The item entitled "Convention on jurisdictional immunities of States and their property" was included in the provisional agenda of the fifty-second session of the General Assembly pursuant to Assembly resolution 49/61 of 9 December 1994.

2. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 26th and 32nd meetings, on 11 and 19 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.26 and 32).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/52/294).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/52/L.18

5. At the 32nd meeting, on 19 November, the Chairman of the Committee introduced a draft resolution entitled "Convention on jurisdictional immunities of States and their property" (A/C.6/52/L.18).

6. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.18 without a vote (see para. 7).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Convention on jurisdictional immunities of States and their property

The General Assembly,

Recalling its resolution 49/61 of 9 December 1994,

Considering that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Having considered the report of the Secretary-General,[1]

1. Decides to consider this item again at its fifty-third session with a view to the establishment of a working group at its fifty-fourth session, taking into account the comments submitted by States in accordance with resolution 49/61;

2. Urges States, if they have not yet done so, to submit to the Secretary-General their comments in accordance with paragraph 2 of resolution 49/61.

---

[1] A/52/294.

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/52/646
25 November 1997
ENGLISH
ORIGINAL: ARABIC AND ENGLISH

Fifty-second session
Agenda item 145

UNITED NATIONS PROGRAMME OF ASSISTANCE IN THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. The item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law" was included in the provisional agenda of the fifty-second session of the General Assembly pursuant to paragraph 18 of Assembly resolution 50/43 of 11 December 1995.

2. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 31st and 32nd meetings, on 18 and 19 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.31 and 32).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/52/524).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/52/L.17 AND CORR.1

5. At the 31st meeting, on 18 November, the representative of Ghana, on behalf of Côte d'Ivoire, Cyprus, the Czech Republic, Ethiopia, Germany, Ghana, Iran (Islamic Republic of), Lebanon, Malaysia, the Niger, Nigeria and Portugal joined by Trinidad and Tobago, Ukraine and Uruguay, introduced a draft resolution entitled "United Nations Programme of Assistance in the Teaching, Study,

Dissemination and Wider Appreciation of International Law" (A/C.6/52/L.17 and Corr.1).

6. At its 32nd meeting, on 19 November, the Committee adopted draft resolution A/C.6/52/L.17 and Corr.1 without a vote (see para. 7).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

The General Assembly,

Recalling paragraph 16 of its resolution 50/43 of 11 December 1995 and paragraph 14 of section IV of the annex to its resolution 51/157 of 16 December 1996,

Taking note with appreciation of the report of the Secretary-General on the implementation of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law[1] and the guidelines and recommendations on future implementation of the Programme which were adopted by the Advisory Committee on the Programme and are contained in section III of that report,

Bearing in mind that the encouragement of the teaching, study, dissemination and wider appreciation of international law is one of the main objectives of the United Nations Decade of International Law, as declared in its resolution 44/23 of 17 November 1989 and further reaffirmed and expanded in section IV of the programme for the activities for the first term (1990-1992), the second term (1993-1994), the third term (1995-1996) and the final term (1997-1999) annexed to resolutions 45/40 of 28 November 1990, 47/32 of 25 November 1992, 49/50 of 9 December 1996 and 51/157, respectively,

Considering that international law should occupy an appropriate place in the teaching of legal disciplines at all universities,

Noting with appreciation the efforts made by States at the bilateral level to provide assistance in the teaching and study of international law,

Convinced, nevertheless, that States and international organizations and institutions should be encouraged to give further support to the Programme and increase their activities to promote the teaching, study, dissemination and wider appreciation of international law, in particular those activities which are of special benefit to persons from developing countries,

---

[1] A/52/524.

Reaffirming its resolutions 2464 (XXIII) of 20 December 1968, 2550 (XXIV) of 12 December 1969, 2838 (XXVI) of 18 December 1971, 3106 (XXVIII) of 12 December 1973, 3502 (XXX) of 15 December 1975, 32/146 of 16 December 1977, 36/108 of 10 December 1981 and 38/129 of 19 December 1983, in which it stated or recalled that in the conduct of the Programme it was desirable to use as far as possible the resources and facilities made available by Member States, international organizations and others, as well as its resolutions 34/144 of 17 December 1979, 40/66 of 11 December 1985, 42/148 of 7 December 1987, 44/28 of 4 December 1989, 46/50 of 9 December 1991 and 48/29 of 9 December 1993, in which, in addition, it expressed or reaffirmed the hope that, in appointing lecturers for the seminars to be held within the framework of the fellowship programme in international law, account would be taken of the need to secure representation of major legal systems and balance among various geographical regions,

1. Approves the guidelines and recommendations contained in section III of the report of the Secretary-General[1] and adopted by the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, in particular those designed to achieve the best possible results in the administration of the Programme within a policy of maximum financial restraint;

2. Also approves the establishment of the United Nations Audiovisual Library in International Law as proposed by the Secretary-General in paragraph 89 and the annex to his report;[1]

3. Authorizes the Secretary-General to carry out in 1998 and 1999 the activities specified in his report, including the provision of:

(a) A number of international law fellowships in both 1998 and 1999, to be determined in the light of the overall resources for the Programme and to be awarded at the request of Governments of developing countries;

(b) A minimum of one scholarship in both 1998 and 1999 under the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, subject to the availability of new voluntary contributions made specifically to the fellowship fund;

(c) Subject to the overall resources for the Programme, assistance in the form of a travel grant for one participant from each developing country, who would be invited to possible regional courses to be organized in 1998 and 1999;

and to finance the above activities from provisions in the regular budget, when appropriate, as well as from voluntary financial contributions earmarked for each of the activities concerned, which would be received as a result of the requests set out in paragraphs 14, 15 and 16 below;

4. Expresses its appreciation to the Secretary-General for his constructive efforts to promote training and assistance in international law within the framework of the Programme in 1996 and 1997, in particular for the

organization of the thirty-second[2] and thirty-third[3] sessions of the International Law Seminar, held at Geneva in 1996 and 1997, respectively, and for the activities of the Office of Legal Affairs of the Secretariat related to the fellowship programme in international law and to the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, carried out, respectively, through its Codification Division and its Division for Ocean Affairs and the Law of the Sea;

5. Requests the Secretary-General to consider the possibility of admitting, for participation in the various components of the Programme of Assistance, candidates from countries willing to bear the entire cost of such participation;

6. Also requests the Secretary-General to consider the relative advantages of using available resources and voluntary contributions for regional, subregional or national courses, as against courses organized within the United Nations system;

7. Requests the Secretary-General to continue to provide the necessary resources to the programme budget for the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law for the next and the future bienniums with a view to maintaining the effectiveness of the Programme;

8. Welcomes the efforts undertaken by the Office of Legal Affairs to bring up to date the United Nations Treaty Series and the United Nations Juridical Yearbook as well as efforts made to place on the Internet the Treaty Series and other legal information;

9. Expresses its appreciation to the United Nations Institute for Training and Research for its participation in the Programme through the activities described in the report of the Secretary-General;

10. Also expresses its appreciation to the United Nations Educational, Scientific and Cultural Organization for its participation in the Programme through the activities described in the report of the Secretary-General;

11. Further expresses its appreciation to the Hague Academy of International Law for the valuable contribution it continues to make to the Programme which has enabled candidates under the international law fellowship programme to attend and participate in the Programme in conjunction with the Academy courses;

12. Notes with appreciation the contributions of the Hague Academy of International Law to the teaching, study, dissemination and wider appreciation

---

[2] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1), chap. VII, sect. F.

[3] Ibid., Fifty-second Session, Supplement No. 10 (A/52/10), chap. X, sect. H.

of international law, and calls upon Member States and interested organizations to give favourable consideration to the appeal of the Academy for a continuation of support and a possible increase in their financial contributions, to enable the Academy to carry out its activities, particularly those relating to the summer courses, regional courses and programmes of the Centre for Studies and Research in International Law and International Relations;

13. Urges all States and relevant international organizations, whether regional or universal, to make all possible efforts to implement the goals and carry out the activities contemplated in section IV of the programme of activities for the final term (1997-1999) of the United Nations Decade of International Law, dealing with the encouragement of the teaching, study, dissemination and wider appreciation of international law and contained in the annex to its resolution 51/157;

14. Requests the Secretary-General to continue to publicize the Programme and periodically to invite Member States, universities, philanthropic foundations and other interested national and international institutions and organizations, as well as individuals, to make voluntary contributions towards the financing of the Programme or otherwise to assist in its implementation and possible expansion;

15. Reiterates its request to Member States and to interested organizations and individuals to make voluntary contributions, inter alia, for the International Law Seminar, for the fellowship programme in international law, for the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea and for the United Nations Audiovisual Library in International Law, and expresses its appreciation to those Member States, institutions and individuals which have made voluntary contributions for this purpose;

16. Urges in particular all Governments to make voluntary contributions for the organization of regional refresher courses in international law by the United Nations Institute for Training and Research, especially with a view to covering the amount needed for the financing of the daily subsistence allowance for up to twenty-five participants in each regional course, thus alleviating the burden on prospective host countries and making it possible for the Institute to continue to organize the regional courses;

17. Requests the Secretary-General to report to the General Assembly at its fifty-fourth session on the implementation of the Programme during 1998 and 1999 and, following consultations with the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, to submit recommendations regarding the execution of the Programme in subsequent years;

18. Decides to include in the provisional agenda of its fifty-fourth session the item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law".

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/52/647
25 November 1997
ENGLISH
ORIGINAL: ARABIC AND ENGLISH

Fifty-second session
Agenda item 146

UNITED NATIONS DECADE OF INTERNATIONAL LAW

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-second session the item entitled:

"United Nations Decade of International Law:

(a) United Nations Decade of International Law;

(b) Action to be taken in 1999 dedicated to the centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law;

(c) Draft guiding principles for international negotiations"

and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 8th to 10th, 30th and 31st meetings, on 14, 15 and 17 October and on 14 and 18 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.8-10, 30 and 31).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Note by the Secretary-General (A/52/363);

97-33774 (E) 031297

/...

(b) Letter dated 3 February 1997 from the Chargé d'affaires a.i. of the Permanent Mission of the United Arab Emirates addressed to the Secretary-General (A/52/71);

(c) Letter dated 14 March 1997 from the representatives of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan to the United Nations addressed to the Secretary-General, transmitting the text of a statement issued at Tashkent on 15 September 1997 by the Ministers for Foreign Affairs of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan (A/52/112);

(d) Letter dated 12 June 1997 from the Permanent Representative of Mongolia to the United Nations addressed to the Secretary-General (A/52/141);

(e) Identical letters dated 20 May 1997 from the Chargé d'affaires a.i. of the Permanent Mission of the United Arab Emirates to the United Nations addressed to the Secretary-General and the President of the Security Council (A/52/154-S/1997/383);

(f) Letter dated 27 May 1997 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General (A/52/160);

(g) Letter dated 2 June 1997 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General (A/52/168-S/1997/429);

(h) Letter dated 10 June 1997 from the Chargé d'affaires a.i. of the Permanent Mission of the United Arab Emirates to the United Nations addressed to the Secretary-General (A/52/180-S/1997/448);

(i) Letter dated 18 June 1997 from the Chargé d'affaires a.i. of the Permanent Mission of the United Arab Emirates to the United Nations addressed to the Secretary-General (A/52/186-S/1997/477);

(j) Letter dated 28 August 1997 from the Permanent Representative of Paraguay to the United Nations addressed to the Secretary-General, transmitting the declarations of the Eleventh Summit of Heads of State and Government of the Rio Group, held at Asunción on 23 and 24 August 1997 (A/52/347);

(k) Letter dated 16 September 1997 from the Permanent Representative of the United Arab Emirates to the United Nations addressed to the Secretary-General (A/52/361-S/1997/720);

(l) Letter dated 1 October 1997 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General, transmitting the communiqué of the Meeting of Ministers for Foreign Affairs and Heads of Delegation of the Movement of Non-Aligned Countries to the fifty-second session of the General Assembly, held in New York on 25 September 1997 (A/52/447-S/1997/775);

(m) Letter dated 13 October 1997 from the Permanent Representatives of the Netherlands and the Russian Federation to the United Nations addressed to the Secretary-General (A/C.6/52/3);

4. The General Assembly, in its resolution 51/157, had requested the Working Group on the United Nations Decade of International Law to continue its work at the fifty-second session in accordance with its mandate and methods of work. Pursuant to that request, the Sixth Committee, at its 4th meeting, on 7 October, elected Mrs. Socorro Flores (Mexico) Chairman of the Working Group for the session. The Working Group held nine meetings, from 17 October to 13 November.

5. At the 30th meeting, on 14 November, the Chairman of the Working Group presented an oral report on the work accomplished by the Working Group (see A/C.6/52/SR.30).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.6/52/L.12

6. At the 31st meeting, on 18 November, the Chairman of the Working Group introduced a draft resolution entitled "United Nations Decade of International Law" (A/C.6/52/L.12).

7. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.12 without a vote (see para. 14, draft resolution I).

B. Draft resolutions A/C.6/52/L.2 and L.5

8. The Working Group considered a draft resolution submitted by the Netherlands and the Russian Federation entitled "Action to be taken dedicated to the 1999 centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law" (A/C.6/52/L.2), which read:

> "The General Assembly,
>
> "Reaffirming once again the commitment of the United Nations and its Member States, as well as the States party to the Statute of the International Court of Justice, to the goals and aspirations of the United Nations Decade of International Law, expressed by the General Assembly in subsequent resolutions under that item of its agenda,[1]
>
> "Mindful of the long and well-established tradition of progressive development and codification of international law, marked by the first and the second International Peace Conferences, held at The Hague in 1899 and 1907 respectively,
>
> "Recalling that the third International Peace Conference, which was meant to be held at The Hague in 1915, did not take place,

---

[1] Notably resolutions 44/23 of 17 November 1989 and 51/157 of 16 December 1996.

"Recalling also the proposal by the Russian Federation for a third international peace conference with a view to considering international law and order in the post-cold-war world at the threshold of the twenty-first century, referred to in resolution 51/159 of 16 December 1996, and the initiatives undertaken by the Kingdom of the Netherlands with regard to the commemoration of the first International Peace Conference,

"Recalling further that in the same resolution, the General Assembly invited the Governments of the Russian Federation and the Netherlands to arrange, as a matter of urgency, a preliminary discussion with other interested Member States on the substantive content of action to be taken in 1999 and to seek, in this respect, the cooperation of the International Court of Justice, the Permanent Court of Arbitration, relevant intergovernmental organizations as well as other relevant organizations,

"Noting, in this respect, that a meeting of the "Friends of 1999" took place on 22 April 1997 at the Peace Palace, The Hague, to which representatives of 20 States from all regions of the world, the International Court of Justice, the Permanent Court of Arbitration, the International Committee of the Red Cross and the coalition of non-governmental organizations Hague Appeal for Peace were invited for consultations on proposals for a draft programme of action for the centennial of the first International Peace Conference,

"Noting with satisfaction that the realization of all those proposals in the Programme of Action dedicated to the centennial of the first International Peace Conference, presented by the Netherlands and the Russian Federation,[2] is consistent with the goals and aspirations of the United Nations Decade of International Law,

"Noting also that the Programme of Action inter alia calls for the presentation of the results of the centennial discussions to the General Assembly of the United Nations at its fifty-fourth session, at the closing of the United Nations Decade of International Law,

"Noting further that the Programme of Action does not entail budgetary implications for the United Nations,

"1. Welcomes the Programme of Action dedicated to the centennial of the first International Peace Conference, presented by the Governments of the Kingdom of the Netherlands and of the Russian Federation, which aims at contributing to the further development of the themes of the first and the second International Peace Conferences and could be regarded as a third International Peace Conference;

---

[2] A/C.6/52/3.

"2. Invites:

"(a) The Governments of the Kingdom of the Netherlands and of the Russian Federation to proceed with the implementation of the Programme of Action;

"(b) All States to participate in the activities set out in the Programme of Action, as well as to initiate such activities and to coordinate their efforts in this respect at the global level, as well as at the regional and national levels;

"(c) All States to take appropriate measures to ensure universal participation in the activities pursuant to the Programme of Action, with special consideration for the participation of representatives of the least developed countries;

"3. Calls upon the competent United Nations organs, subsidiary organs, programmes and specialized agencies, including the International Court of Justice, the International Law Commission and the Secretariat, within their respective mandates, competencies and budgets, as well as upon other international organizations:

"(a) To cooperate in the implementation of the Programme of Action and to coordinate their efforts in this respect;

"(b) To consider participation in the activities envisaged in the Programme of Action;

"4. Requests the Secretary-General to ensure consistency of the Organization's activities relating to the closing of the Decade of International Law with the Programme of Action and to direct his efforts accordingly;

"5. Decides to include in the provisional agenda of its fifty-third session, under the item entitled 'United Nations Decade of International Law', a sub-item entitled 'Progress in the action dedicated to the 1999 centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law'."

9. At the 31st meeting, on 18 November, the Chairman of the Working Group, as a result of its deliberations on draft resolution A/C.6/52/L.2, introduced a draft resolution entitled "Action to be taken dedicated to the 1999 centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law" (A/C.6/52/L.5).

10. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.5 without a vote (see para. 14, draft resolution II).

C. Draft resolution A/C.6/52/L.4 and Rev.1

11. The Committee had before it a draft resolution entitled "Draft guiding principles for international negotiations" (A/C.6/52/L.4), submitted by Brunei Darussalam, Colombia, Guatemala, Italy, Kyrgyzstan, Malaysia, Mongolia, Nepal, Qatar, San Marino, Singapore, Slovenia, Solomon Islands, the Sudan, the former Yugoslav Republic of Macedonia and Viet Nam, subsequently joined by Uruguay which read:

"The General Assembly,

"Recalling the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of cooperation among States,

"Taking into account the objectives of the United Nations Decade of International Law,

"Reaffirming the provisions of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[3]

"Recalling Article 13, paragraph 1 (a), of the Charter of the United Nations, whereby the General Assembly is called upon to initiate studies and make recommendations for the purpose of promoting international cooperation in the political field and encouraging the progressive development of international law and its codification,

"Proceeding from the fact that in their negotiations States are guided in general by the principles of international law,

"Bearing in mind the increasing role that constructive and effective negotiations could play in attaining the noble purposes of the Charter of the United Nations by contributing to the management of international relations, the peaceful settlement of disputes and the creation of new international norms of conduct of States,

"Convinced that the identification and harmonization of guiding principles for international negotiations would contribute to enhancing the predictability of negotiating parties, reducing uncertainty and promoting an atmosphere of trust at negotiations,

"Convinced also that setting a minimum standard of conduct for negotiating parties could induce them to act in accordance therewith, as well as offer them some leverage for requiring other parties to act likewise,

"Having considered the item entitled 'Draft guiding principles for international negotiations',

---

[3] Resolution 2625 (XXV), annex.

"1. Underlines the importance of conducting effective negotiations in managing international relations and the peaceful settlement of disputes as well as in the codification and progressive development of international law;

"2. Takes note of the 'Draft guiding principles for international negotiations' contained in document A/52/141;

"3. Takes note also of the comments and proposals made during the consideration of the item, including the need for further consideration of the item to elaborate the above-mentioned principles;

"4. Decides to refer the consideration of this item to the Working Group on the United Nations Decade of International Law;

"5. Invites all States and relevant international organizations to submit to the Secretary-General, before 15 July 1998, comments and suggestions on the content of the draft guiding principles for international negotiations;

"6. Requests the Secretary-General to transmit the comments and suggestions mentioned in paragraphs 3 and 5 above to the Working Group for its substantive consideration during the fifty-third session of the General Assembly;

"7. Decides to include in the provisional agenda of its fifty-third session, under the item entitled 'United Nations Decade of International Law', the sub-item entitled 'Draft guiding principles for international negotiations'."

12. At the 31st meeting, on 18 November, the representative of Mongolia, on behalf of the co-sponsors of A/C.6/52/L.4, Portugal, Turkey and Uruguay, subsequently joined by Cuba and Lebanon, introduced a revised draft resolution (A/C.6/52/L.4/Rev.1).

13. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.4/Rev.1 without a vote (see para. 14, draft resolution III).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

14. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

United Nations Decade of International Law

The General Assembly,

Recalling its resolution 44/23 of 17 November 1989, by which it declared the period 1990-1999 the United Nations Decade of International Law,

Recalling also that the main purposes of the Decade, according to resolution 44/23, should be, inter alia:

(a) To promote acceptance of and respect for the principles of international law;

(b) To promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice;

(c) To encourage the progressive development of international law and its codification;

(d) To encourage the teaching, study, dissemination and wider appreciation of international law,

Recalling further its resolution 51/157 of 16 December 1996, to which was annexed the programme for the activities for the final term (1997-1999) of the Decade, and its resolution 51/158 of 16 December 1996, entitled "Electronic treaty database",

Expressing its appreciation for the note submitted by the Secretary-General,[4] and having considered the note,

Recalling that the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations of 21 March 1986[5] is one of the conventions adopted under the aegis of the United Nations which have codified the law of treaties, and recalling also its impact on the practice of treaties concluded between States and international organizations or between international organizations,

Recalling also that at the forty-fifth session of the General Assembly the Sixth Committee established the Working Group on the United Nations Decade of International Law with a view to preparing generally acceptable recommendations on the programme of activities for the Decade,

---

[4] A/52/363.

[5] A/CONF.129/15.

Noting that at the fifty-second session the Sixth Committee reconvened the Working Group to continue its work in accordance with resolution 51/157 and all previous resolutions on the question,

Having considered the oral report of the Chairman of the Working Group to the Sixth Committee,[6]

1. Expresses its appreciation for the work done on the United Nations Decade of International Law at the current session, and requests the Working Group of the Sixth Committee to continue its work at the fifty-third session in accordance with its mandate and methods of work;

2. Also expresses its appreciation to States and international organizations and institutions that have undertaken activities in implementation of the programme for the activities for the final term (1997-1999) of the Decade, including sponsoring conferences on various subjects of international law;

3. Invites all States and international organizations and institutions referred to in the programme to provide, update or supplement information on activities they have undertaken in its implementation, as appropriate, to the Secretary-General for inclusion in the report requested under paragraph 8 of resolution 51/157;

4. Encourages States to disseminate at the national level, as appropriate, information contained in the note submitted by the Secretary-General;[4]

5. Encourages States to consider ratifying or acceding to the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, international organizations that have signed the Convention to deposit an act of formal confirmation of the Convention and other international organizations entitled to do so to accede to it at an early date;

6. Encourages States parties and international organizations or agencies, including depositaries, in order to further facilitate implementation of the obligation laid down in Article 102 of the Charter of the United Nations to provide, where available, a copy of the text of any treaty in disk or other electronic format and to consider providing where available translations in English or French or both as may be needed, for the purposes of assisting with the timely publication of the United Nations Treaty Series;

7. Invites the Secretary-General to apply the provisions of article 12, paragraph 2, of the Regulations to give effect to Article 102 of the Charter of the United Nations[7] to multilateral treaties falling within the terms of article 12, paragraph 2 (a) to (c);

---

[6] See A/C.6/52/SR.30.

[7] United Nations, Treaty Series, vol. 859/860, p. VIII.

8. Encourages the Office of Legal Affairs of the Secretariat to continue in its efforts to facilitate access to information concerning United Nations activities in the field of international law and to bring up to date the publication of the United Nations Juridical Yearbook;

9. Encourages the Secretary-General to continue developing a policy of providing Internet access to the United Nations Treaty Series and the Multilateral Treaties Deposited with the Secretary-General, keeping in mind especially the needs of developing countries, in recovering the costs thereof;

10. Requests the Secretary-General to proceed to translate and publish in the form of a report issued in the official languages of the United Nations a list of the titles of the treaties appearing in the publication Multilateral Treaties Deposited with the Secretary-General;

11. Also requests the Secretary-General to ensure that hard copies of the publications mentioned in paragraph 9 above continue to be distributed to permanent missions free of charge in accordance with their needs;

12. Appeals to States, international organizations and non-governmental organizations working in the field of international law and to the private sector to make financial contributions or contributions in kind for the purpose of facilitating the implementation of the programme;

13. Once again requests the Secretary-General to bring to the attention of States and international organizations and institutions working in the field of international law the programme annexed to resolution 51/157;

14. Notes with appreciation the activities undertaken by the International Committee of the Red Cross in the field of international humanitarian law, including with regard to the protection of the environment in times of armed conflict;

15. Decides to include in the provisional agenda of its fifty-third session the item entitled "United Nations Decade of International Law".

DRAFT RESOLUTION II

Action to be taken dedicated to the 1999 centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law

The General Assembly,

Reaffirming once again the commitment of the United Nations and its Member States, as well as the States parties to the Statute of the International Court of Justice, to the goals of the United Nations Decade of International Law, expressed by the General Assembly in resolutions under that item of its agenda,[8]

[8] Notably resolutions 44/23 and 51/157.

Mindful of the long and well-established tradition of progressive development and codification of international law, marked by the first and the second International Peace Conferences, held at The Hague in 1899 and 1907 respectively,

Recalling that the third International Peace Conference, scheduled to be held at The Hague in 1915, was not held because of the outbreak of the First World War the previous year,

Recalling also the proposal by the Russian Federation for a third international peace conference with a view to considering international law and order in the post-cold-war world at the threshold of the twenty-first century, referred to in General Assembly resolution 51/159 of 16 December 1996, and the initiatives undertaken by the Kingdom of the Netherlands with regard to the commemoration of the first International Peace Conference,

Recalling further that in the same resolution the General Assembly invited the Governments of the Russian Federation and the Netherlands to arrange, as a matter of urgency, a preliminary discussion with other interested Member States on the substantive content of action to be taken in 1999 and to seek, in that respect, the cooperation of the International Court of Justice, the Permanent Court of Arbitration, relevant intergovernmental organizations, as well as other relevant organizations,

Noting, in this respect, that a meeting of the "Friends of 1999" was held on 22 April 1997 at the Peace Palace, The Hague, to which representatives of 20 States from all regions of the world, the International Court of Justice, the Permanent Court of Arbitration, the International Committee of the Red Cross and the coalition of non-governmental organizations Hague Appeal for Peace were invited for consultations on proposals for a draft programme of action for the centennial of the first International Peace Conference,

Noting with satisfaction that the realization of all those proposals in the Programme of Action dedicated to the centennial of the first International Peace Conference, presented by the Netherlands and the Russian Federation,[9] is consistent with the goals of the United Nations Decade of International Law,

Noting also that the Programme of Action, inter alia, calls for the presentation of the results of the centennial discussions to the General Assembly at its fifty-fourth session, at the closing of the United Nations Decade of International Law,

Noting further that the Programme of Action does not entail budgetary implications for the United Nations,

1. Welcomes the Programme of Action dedicated to the centennial of the first International Peace Conference, presented by the Governments of the Netherlands and the Russian Federation, which aims at contributing to the further development of the themes of the first and the second International

---

[9] A/C.6/52/3.

Peace Conferences and could be regarded as a third international peace conference;

2. Encourages:

(a) The Governments of the Netherlands and the Russian Federation to proceed with the implementation of the Programme of Action;

(b) All States to participate in the activities set out in the Programme of Action, as well as to initiate such activities and to coordinate their efforts in this respect at the global level, as well as at the regional and national levels;

(c) All States to take appropriate measures to ensure universal participation in the activities pursuant to the Programme of Action, with special consideration for the participation of representatives of the least developed countries;

3. Encourages the competent United Nations organs, subsidiary organs, programmes and specialized agencies, including the International Court of Justice, the International Law Commission and the Secretariat, within their respective mandates, competencies and budgets, as well as other international organizations:

(a) To cooperate in the implementation of the Programme of Action and to coordinate their efforts in this respect;

(b) To consider participation in the activities envisaged in the Programme of Action;

4. Requests the Secretary-General to ensure consistency of the Organization's activities relating to the closing of the Decade of International Law with the Programme of Action and to direct his efforts accordingly;

5. Decides to include in the provisional agenda of its fifty-third session, under the item entitled "United Nations Decade of International Law", a sub-item entitled "Progress in the action dedicated to the 1999 centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law".

DRAFT RESOLUTION III

Draft guiding principles for international negotiations

The General Assembly,

Recalling the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of cooperation among States, as well as Article 13, paragraph 1, of the Charter of the United Nations, whereby the General Assembly is called upon to initiate

studies and make recommendations for the purpose of promoting international cooperation,

Taking into account the objectives of the United Nations Decade of International Law,

Reaffirming the provisions of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[10]

Bearing in mind that in their negotiations States should be guided by the relevant principles of international law,

Bearing in mind the important role that constructive and effective negotiations can play in attaining the purposes of the Charter of the United Nations by:

- contributing to the management of international relations,

- the peaceful settlement of disputes,

- the creation of new international norms of conduct of States,

Noting that the identification and harmonization of guiding principles for international negotiations could contribute to enhancing the predictability of negotiating parties, reducing uncertainty and promoting an atmosphere of trust at negotiations and could offer a frame of reference for negotiations,

Having considered the sub-item entitled "Draft guiding principles for international negotiations",

1. Underlines the importance of conducting effective negotiations in managing international relations and the peaceful settlement of disputes and in the creation of new international norms of conduct of States;

2. Takes note of the "Draft guiding principles for international negotiations" contained in document A/52/141 and the comments and proposals made during the consideration of the sub-item, including the need for its further consideration;

3. Decides to continue the consideration of this sub-item in the Working Group on the United Nations Decade of International Law during the fifty-third session of the General Assembly;

4. Invites all States and relevant international organizations to submit in writing to the Secretary-General, before 1 August 1998, comments and proposals on the content of the "Draft guiding principles for international negotiations";

---

[10] Resolution 2625 (XXV), annex.

5. Requests the Secretary-General to transmit the comments and proposals mentioned in paragraphs 2 and 4 above to the Working Group for its consideration;

6. Decides to include in the provisional agenda of its fifty-third session under the item entitled "United Nations Decade of International Law" the sub-item entitled "Draft guiding principles for international negotiations".

UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/52/648
25 November 1997
ENGLISH
ORIGINAL: ARABIC AND ENGLISH

Fifty-second session
Agenda item 147

REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-NINTH SESSION

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-second session the item entitled "Report of the International Law Commission on the work of its forty-ninth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 16th to 25th and 32nd meetings, on 27, 30 and 31 October, from 3 to 7 and on 19 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.16-25 and 32).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the International Law Commission on the work of its forty-ninth session;[1]

(b) Letter dated 23 July from the Permanent Representative of Turkmenistan to the United Nations addressed to the Secretary-General (A/52/259 and Corr.1).

---

[1] Official Records of the General Assembly, Fifty-second Session, Supplement No. 10 (A/52/10).

4. The Chairman of the International Law Commission at its forty-ninth session introduced the report of the Commission: chapters I to III and part of chapter X at the 16th meeting, on 27 October; chapter IV at the 18th meeting, on 30 October; chapter V at the 20th meeting, on 3 November; and chapters VI to X at the 22nd meeting, on 5 November. At the 25th meeting, on 7 November, the Chairman of the Commission made a statement in the light of the debate (see A/C.6/52/SR.25).

5. Pursuant to the request of the General Assembly in paragraph 18 of its resolution 51/160, the Secretary-General organized a colloquium on the progressive development and codification of international law to commemorate the fiftieth anniversary of the establishment of the International Law Commission, which was held on 28 and 29 October 1997.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/52/L.15 AND Corr.1

6. At the 32nd meeting, on 19 November, the representative of India introduced a draft resolution entitled "Report of the International Law Commission on the work of its forty-ninth session" (A/C.6/52/L.15 and Corr.1), which had been proposed by the Chairman.

7. At the same meeting, the Chairman of the Committee drew its attention to a statement of the programme budget implications of draft resolution A/C.6/52/L.15 and Corr.1, submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly (A/C.6/52/L.20).

8. Also at the same meeting, the Committee adopted operative paragraphs 10 and 11 of draft resolution A/C.6/52/L.15 and Corr.1 by a separate vote of 75 in favour to 1 against, with 9 abstentions. Statements in connection with the vote were made by the representatives of New Zealand, the United States of America, Malaysia, Turkey, Tunisia, Ukraine, Viet Nam, Canada, the United Kingdom of Great Britain and Northern Ireland, Portugal, Argentina and Zambia (see A/C.6/52/SR.32).

9. The representatives of Mexico and Cuba made statements in explanation of position before the adoption of the draft resolution as a whole (see A/C.6/52/SR.32).

10. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.15 and Corr.1, as a whole, without a vote (see para. 11).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the International Law Commission on the work of its forty-ninth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its forty-ninth session,[2]

Emphasizing the importance of furthering the progressive development of international law and its codification as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[3]

Emphasizing also the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Stressing the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report,

Wishing to enhance further the interaction between the Sixth Committee as a body of government representatives and the International Law Commission as a body of independent legal experts, with a view to improving the dialogue between the two organs,

1. Takes note of the report of the International Law Commission on the work of its forty-ninth session,[2] and expresses its appreciation to the Commission for the work accomplished at that session, in particular for the completion of the first reading of draft articles on nationality of natural persons in relation to the succession of States and for the preliminary conclusions on reservations to normative multilateral treaties, including human rights treaties;

---

[2] Official Records of the General Assembly, Fifty-second Session, Supplement No. 10 (A/52/10).

[3] Resolution 2625 (XXV), annex.

2. Draws the attention of Governments to the importance, for the International Law Commission, of having their views on all the specific issues identified in chapter III of its report and in particular on:

(a) The draft articles on nationality of natural persons in relation to the succession of States adopted on first reading by the Commission, and urges them to submit their comments and observations in writing by 1 October 1998;

(b) The preliminary conclusions of the International Law Commission on reservations to normative multilateral treaties, including human rights treaties;

3. Recommends that, taking into account the comments and observations of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

4. Takes note of the invitation by the International Law Commission to all treaty bodies set up by normative multilateral treaties that may wish to do so to provide, in writing, their comments and observations on the preliminary conclusions of the International Law Commission on reservations to normative multilateral treaties, including human rights treaties, and takes note of the views expressed by Member States on the matter;

5. Invites Governments to submit comments and observations on the practical problems raised by the succession of States affecting the nationality of legal persons in order to assist the International Law Commission in deciding on its future work on this portion of the topic of "Nationality in relation to the succession of States";

6. Recalls the importance for the International Law Commission of having the views of Governments on the draft articles on State responsibility adopted on first reading by the Commission at its forty-eighth session in 1996;[4]

7. Takes note of the decision by the International Law Commission to proceed with its work on "International liability for injurious consequences arising out of acts not prohibited by international law", undertaking, as a first step, the issue of prevention, and to reiterate its request to Governments to provide in writing, if they have not previously done so, their comments and observations on the topic of international liability, including the draft articles prepared by the Working Group of the International Law Commission at its forty-eighth session in 1996,[5] in order to assist the Commission in its work on that topic;

---

[4] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1), chap. III, sect. D.

[5] Ibid., annex I.

8. Endorses the decision of the International Law Commission to include in its agenda the topics "Diplomatic protection" and "Unilateral acts of States";[6]

9. Welcomes with appreciation the steps taken by the International Law Commission in relation to its internal matters, and encourages it to continue enhancing its efficiency and productivity taking into consideration the discussion held by the General Assembly at its fifty-second session;

10. Takes note of the comments of the International Law Commission on the question of a split session for 1998, as presented in paragraphs 225 to 227 of its report;[2]

11. Takes note also of the position of the International Law Commission contained in paragraph 228 of its report[2] on the duration of its future sessions;

12. Requests the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, those specific issues, if any, on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

13. Takes note with appreciation of the Commission's ongoing review of its cooperation and relationship with other bodies concerned with international law, and requests the Commission, in consultation with the Secretary-General, to consider further the implementation of article 16, paragraph (e), and article 26, paragraph 2, of its statute;

14. Notes that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the Commission and in formulating their comments and observations;

15. Reaffirms its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

16. Once again expresses the wish that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars, and requests the Secretary-General to provide the seminars with adequate services, including interpretation, as required;

17. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the

---

[6] Ibid., Fifty-second Session, Supplement No. 10 (A/52/10), para. 221.

Commission at the fifty-second session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

18. Expresses its appreciation to the Secretary-General for the organization of a colloquium on the progressive development and codification of international law which was held on 28 and 29 October 1997 in commemoration of the fiftieth anniversary of the establishment of the International Law Commission;

19. Welcomes the decision of the International Law Commission to hold a two-day seminar at Geneva on 22 and 23 April 1998 to celebrate the fiftieth anniversary of the Commission;

20. Recommends that the debate on the report of the International Law Commission at the fifty-third session of the General Assembly commence on 26 October 1998.

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/52/649
25 November 1997
ENGLISH
ORIGINAL: ARABIC AND ENGLISH

Fifty-second session
Agenda item 148

REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS THIRTIETH SESSION

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-second session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its thirtieth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 3rd, 4th and 27th meetings, on 6 and 7 October and 13 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.3, 4 and 27).

3. For its consideration of the item, the Committee had before it the report of the United Nations Commission on International Trade Law on the work of its thirtieth session [1]

4. At the 3rd meeting, on 6 October, the Chairman of the United Nations Commission on International Trade Law at its thirtieth session introduced the report of the Commission on the work of that session (see A/C.6/52/SR.3).

5. At the 4th meeting, on 7 October, the Chairman of the Commission made a concluding statement (see A/C.6/52/SR.4).

---

[1] Official Records of the General Assembly, Fifty-second Session, Supplement No. 17 (A/52/17).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.6/52/L.6 and Corr.1

6. At the 27th meeting, on 13 November, the representative of Austria, on behalf of Argentina, Australia, Austria, Azerbaijan, Belgium, Botswana, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Egypt, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, India, Israel, Italy, Jamaica, Kazakhstan, Kenya, Luxembourg, Malaysia, Mexico, Mongolia, Morocco, Myanmar, the Netherlands, Nigeria, Norway, Poland, Portugal, Romania, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Turkey, Uganda, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay and Venezuela, introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its thirtieth session" (A/C.6/52/L.6 and Corr.1) and orally revised it as follows: in operative paragraph 5, the word "Governments" was replaced with the word "States" and the words "from the private sector" were added at the end of the paragraph.

7. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.6 and Corr.1, as orally revised, without a vote (see para. 10, draft resolution I).

B. Draft resolution A/C.6/52/L.7 and Corr.1

8. At the 27th meeting, on 13 November, the representative of Austria, on behalf of Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Finland, Germany, Guatemala, Hungary, Iceland, Israel, Italy, Japan, Luxembourg, Mexico, the Netherlands, Norway, Portugal, Romania, Slovakia, South Africa, Spain, Sweden, Thailand, the former Yugoslav Republic of Macedonia, the United States of America, Uruguay and Venezuela, introduced a draft resolution entitled "Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law" (A/C.6/52/L.7 and Corr.1).

9. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.7 and Corr.1 without a vote (see para. 10, draft resolution II).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Report of the United Nations Commission on International Trade Law on the work of its thirtieth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and thereby to the well-being of all peoples,

Stressing the value of participation by States at all levels of economic development and from different legal systems in the process of harmonizing and unifying international trade law,

Having considered the report of the United Nations Commission on International Trade Law on the work of its thirtieth session,[2]

Mindful of the valuable contribution to be rendered by the Commission within the framework of the United Nations Decade of International Law, in particular as regards the dissemination of international trade law,

Concerned that activities undertaken by other bodies of the United Nations system in the field of international trade law without coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law, as stated in its resolution 37/106 of 16 December 1982,

Stressing the importance of the further development of the Case-Law on the United Nations Commission on International Trade Law Texts in promoting the uniform application of the legal texts of the Commission and its value for government officials, practitioners and academics,

1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its thirtieth session;[2]

---

[2] Official Records of the General Assembly, Fifty-second Session, Supplement No. 17 (A/52/17).

2. Notes with satisfaction the completion and adoption by the Commission of the Model Law on Cross-Border Insolvency;[3]

3. Commends the Commission for the progress made in its work on receivables financing, digital signatures and certification authorities, privately financed infrastructure projects and the legislative implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards;[4]

4. Appeals to Governments that have not replied yet to the questionnaire circulated by the Secretariat in relation to the legal regime governing the recognition and enforcement of foreign arbitral awards to do so;

5. Invites States to nominate persons to work with the private foundation established to encourage assistance to the Commission from the private sector;

6. Reaffirms the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field and, in this connection:

(a) Calls upon all bodies of the United Nations system and invites other international organizations to bear in mind the mandate of the Commission and the need to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law;

(b) Recommends that the Commission, through its secretariat, continue to maintain close cooperation with the other international organs and organizations, including regional organizations, active in the field of international trade law;

7. Also reaffirms the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law, such as assistance in the preparation of national legislation based on legal texts of the Commission;

8. Expresses the desirability for increased efforts by the Commission, in sponsoring seminars and symposia, to provide such training and technical assistance, and, in this connection:

(a) Expresses its appreciation to the Commission for organizing seminars and briefing missions in Barbados, Egypt, the Lao People's Democratic Republic, Malaysia, South Africa, Thailand and Viet Nam;

(b) Expresses its appreciation to the Governments whose contributions enabled the seminars and briefing missions to take place, and appeals to Governments, the relevant United Nations organs, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law trust fund for symposia and, where appropriate, to the

---

[3] Ibid., annex I.

[4] United Nations, Treaty Series, vol. 330.

financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

9. Appeals to the United Nations Development Programme and other bodies responsible for development assistance, such as the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development, as well as to Governments in their bilateral aid programmes, to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission;

10. Appeals to Governments, the relevant United Nations organs, organizations, institutions and individuals, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to make voluntary contributions to the trust fund for travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General;

11. Decides, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue its consideration in the competent Main Committee during the fifty-second session of the General Assembly of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

12. Requests the Secretary-General to ensure the effective implementation of the programme of the Commission;

13. Stresses the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions.

DRAFT RESOLUTION II

Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Noting that increased cross-border trade and investment leads to greater incidence of cases where enterprises and individuals have assets in more than one State,

Noting also that when a debtor with assets in more than one State becomes subject to an insolvency proceeding, there often exists an urgent need for cross-border cooperation and coordination in the supervision and administration of the insolvent debtor's assets and affairs,

Considering that inadequate coordination and cooperation in cases of cross-border insolvency reduce the possibility of rescuing financially troubled but viable businesses, impede a fair and efficient administration of cross-border insolvencies, make it more likely that the debtor's assets would be concealed or dissipated and hinder reorganizations or liquidations of debtors' assets and affairs that would be the most advantageous for the creditors and other interested persons, including the debtors and the debtors' employees,

Noting that many States lack a legislative framework that would make possible or facilitate effective cross-border coordination and cooperation,

Convinced that fair and internationally harmonized legislation on cross-border insolvency that respects the national procedural and judicial systems and is acceptable to States with different legal, social and economic systems would contribute to the development of international trade and investment,

Considering that a set of internationally harmonized model legislative provisions on cross-border insolvency is needed to assist States in modernizing their legislation governing cross-border insolvency,

1. Expresses its appreciation to the United Nations Commission on International Trade Law for completing and adopting the Model Law on Cross-Border Insolvency contained in the annex to the present resolution;

2. Requests the Secretary-General to transmit the text of the Model Law, together with the Guide to Enactment of the Model Law prepared by the Secretariat, to Governments and other interested bodies;

3. Recommends that all States review their legislation on cross-border aspects of insolvency to determine whether the legislation meets the objectives of a modern and efficient insolvency system and, in that review, give favourable consideration to the Model Law, bearing in mind the need for an internationally harmonized legislation governing instances of cross-border insolvency;

4. Recommends also that all efforts be made to ensure that the Model Law, together with the Guide, become generally known and available.

ANNEX

Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law

PREAMBLE

The purpose of this Law is to provide effective mechanisms for dealing with cases of cross-border insolvency so as to promote the objectives of:

(a) Cooperation between the courts and other competent authorities of this State and foreign States involved in cases of cross-border insolvency;

(b) Greater legal certainty for trade and investment;

(c) Fair and efficient administration of cross-border insolvencies that protects the interests of all creditors and other interested persons, including the debtor;

(d) Protection and maximization of the value of the debtor's assets; and

(e) Facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

CHAPTER I. GENERAL PROVISIONS

Article 1

Scope of application

1. This Law applies where:

(a) Assistance is sought in this State by a foreign court or a foreign representative in connection with a foreign proceeding; or

(b) Assistance is sought in a foreign State in connection with a proceeding under *[identify laws of the enacting State relating to insolvency]*; or

(c) A foreign proceeding and a proceeding under *[identify laws of the enacting State relating to insolvency]* in respect of the same debtor are taking place concurrently; or

(d) Creditors or other interested persons in a foreign State have an interest in requesting the commencement of, or participating in, a proceeding under *[identify laws of the enacting State relating to insolvency]*.

2. This Law does not apply to a proceeding concerning *[designate any types of entities, such as banks or insurance companies, that are subject to a special*

insolvency regime in this State and that this State wishes to exclude from this Law].

Article 2

Definitions

For the purposes of this Law:

(a) "Foreign proceeding" means a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

(b) "Foreign main proceeding" means a foreign proceeding taking place in the State where the debtor has the centre of its main interests;

(c) "Foreign non-main proceeding" means a foreign proceeding, other than a foreign main proceeding, taking place in a State where the debtor has an establishment within the meaning of subparagraph (f) of this article;

(d) "Foreign representative" means a person or body, including one appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;

(e) "Foreign court" means a judicial or other authority competent to control or supervise a foreign proceeding;

(f) "Establishment" means any place of operations where the debtor carries out a non-transitory economic activity with human means and goods or services.

Article 3

International obligations of this State

To the extent that this Law conflicts with an obligation of this State arising out of any treaty or other form of agreement to which it is a party with one or more other States, the requirements of the treaty or agreement prevail.

Article 4

[Competent court or authority][5]

The functions referred to in this Law relating to recognition of foreign proceedings and cooperation with foreign courts shall be performed by *[specify the court, courts, authority or authorities competent to perform those functions in the enacting State]*.

Article 5

Authorization of *[insert the title of the person or body administering a reorganization or liquidation under the law of the enacting State]* to act in a foreign State

A *[insert the title of the person or body administering a reorganization or liquidation under the law of the enacting State]* is authorized to act in a foreign State on behalf of a proceeding under *[identify laws of the enacting State relating to insolvency]*, as permitted by the applicable foreign law.

Article 6

Public policy exception

Nothing in this Law prevents the court from refusing to take an action governed by this Law if the action would be manifestly contrary to the public policy of this State.

Article 7

Additional assistance under other laws

Nothing in this Law limits the power of a court or a *[insert the title of the person or body administering a reorganization or liquidation under the law of the enacting State]* to provide additional assistance to a foreign representative under other laws of this State.

---

[5] A State where certain functions relating to insolvency proceedings have been conferred upon government-appointed officials or bodies might wish to include in article 4 or elsewhere in chapter I the following provision:

"Nothing in this Law affects the provisions in force in this State governing the authority of *[insert the title of the government-appointed person or body]*."

Article 8

Interpretation

In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

CHAPTER II. ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO COURTS IN THIS STATE

Article 9

Right of direct access

A foreign representative is entitled to apply directly to a court in this State.

Article 10

Limited jurisdiction

The sole fact that an application pursuant to this Law is made to a court in this State by a foreign representative does not subject the foreign representative of the foreign assets and affairs of the debtor to the jurisdiction of the courts of this State for any purpose other than the application.

Article 11

Application by a foreign representative to commence a proceeding under *[identify laws of the enacting State relating to insolvency]*

A foreign representative is entitled to apply to commence a proceeding under *[identify laws of the enacting State relating to insolvency]* if the conditions for commencing such a proceeding are otherwise met.

Article 12

Participation of a foreign representative in a proceeding under *[identify laws of the enacting State relating to insolvency]*

Upon recognition of a foreign proceeding, the foreign representative is entitled to participate in a proceeding regarding the debtor under *[identify laws of the enacting State relating to insolvency]*.

Article 13

Access of foreign creditors to a proceeding under *[identify laws of the enacting State relating to insolvency]*

1. Subject to paragraph 2 of this article, foreign creditors have the same rights regarding the commencement of, and participation in, a proceeding under *[identify laws of the enacting State relating to insolvency]* as creditors in this State.

2. Paragraph 1 of this article does not affect the ranking of claims in a proceeding under *[identify laws of the enacting State relating to insolvency]*, except that the claims of foreign creditors shall not be ranked lower than *[identify the class of general non-preference claims, while providing that a foreign claim is to be ranked lower than the general non-preference claims if an equivalent local claim (e.g. claim for a penalty or deferred-payment claim) has a rank lower than the general non-preference claims]*.[6]

Article 14

Notification to foreign creditors of a proceeding under *[identify laws of the enacting State relating to insolvency]*

1. Whenever under *[identify laws of the enacting State relating to insolvency]* notification is to be given to creditors in this State, such notification shall also be given to the known creditors that do not have addresses in this State. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

2. Such notification shall be made to the foreign creditors individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other, similar formality is required.

3. When a notification of commencement of a proceeding is to be given to foreign creditors, the notification shall:

---

[6] The enacting State may wish to consider the following alternative wording to replace paragraph 2 of article 13:

> "2. Paragraph 1 of this article does not affect the ranking of claims in a proceeding under *[identify laws of the enacting State relating to insolvency]* or the exclusion of foreign tax and social security claims from such a proceeding. Nevertheless, the claims of foreign creditors other than those concerning tax and social security obligations shall not be ranked lower than *[identify the class of general non-preference claims, while providing that a foreign claim is to be ranked lower than the general non-preference claims if an equivalent local claim (e.g. claim for a penalty or deferred-payment claim) has a rank lower than the general non-preference claims]*."

(a) Indicate a reasonable time period for filing claims and specify the place for their filing;

(b) Indicate whether secured creditors need to file their secured claims; and

(c) Contain any other information required to be included in such a notification to creditors pursuant to the law of this State and the orders of the court.

CHAPTER III. RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

Article 15

Application for recognition of a foreign proceeding

1. A foreign representative may apply to the court for recognition of the foreign proceeding in which the foreign representative has been appointed.

2. An application for recognition shall be accompanied by:

(a) A certified copy of the decision commencing the foreign proceeding and appointing the foreign representative; or

(b) A certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

(c) In the absence of evidence referred to in subparagraphs (a) and (b), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

3. An application for recognition shall also be accompanied by a statement identifying all foreign proceedings in respect of the debtor that are known to the foreign representative.

4. The court may require a translation of documents supplied in support of the application for recognition into an official language of this State.

Article 16

Presumptions concerning recognition

1. If the decision or certificate referred to in paragraph 2 of article 15 indicates that the foreign proceeding is a proceeding within the meaning of subparagraph (a) of article 2 and that the foreign representative is a person or body within the meaning of subparagraph (d) of article 2, the court is entitled to so presume.

2. The court is entitled to presume that documents submitted in support of the application for recognition are authentic, whether or not they have been legalized.

3. In the absence of proof to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the centre of the debtor's main interests.

Article 17

Decision to recognize a foreign proceeding

1. Subject to article 6, a foreign proceeding shall be recognized if:

(a) The foreign proceeding is a proceeding within the meaning of subparagraph (a) of article 2;

(b) The foreign representative applying for recognition is a person or body within the meaning of subparagraph (d) of article 2;

(c) The application meets the requirements of paragraph 2 of article 15; and

(d) The application has been submitted to the court referred to in article 4.

2. The foreign proceeding shall be recognized:

(a) As a foreign main proceeding if it is taking place in the State where the debtor has the centre of its main interests; or

(b) As a foreign non-main proceeding if the debtor has an establishment within the meaning of subparagraph (f) of article 2 in the foreign State.

3. An application for recognition of a foreign proceeding shall be decided upon at the earliest possible time.

4. The provisions of articles 15, 16, 17 and 18 do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist.

Article 18

Subsequent information

From the time of filing the application for recognition of the foreign proceeding, the foreign representative shall inform the court promptly of:

(a) Any substantial change in the status of the recognized foreign proceeding or the status of the foreign representative's appointment; and

(b) Any other foreign proceeding regarding the same debtor that becomes known to the foreign representative.

Article 19

Relief that may be granted upon application for recognition of a foreign proceeding

1. From the time of filing an application for recognition until the application is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including:

(a) Staying execution against the debtor's assets;

(b) Entrusting the administration or realization of all or part of the debtor's assets located in this State to the foreign representative or another person designated by the court, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy;

(c) Any relief mentioned in paragraph 1 (c), (d) and (g) of article 21.

2. *[Insert provisions (or refer to provisions in force in the enacting State) relating to notice.]*

3. Unless extended under paragraph 1 (f) of article 21, the relief granted under this article terminates when the application for recognition is decided upon.

4. The court may refuse to grant relief under this article if such relief would interfere with the administration of a foreign main proceeding.

Article 20

Effects of recognition of a foreign main proceeding

1. Upon recognition of a foreign proceeding that is a foreign main proceeding:

(a) Commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities is stayed;

(b) Execution against the debtor's assets is stayed; and

(c) The right to transfer, encumber or otherwise dispose of any assets of the debtor is suspended.

2. The scope, and the modification or termination, of the stay and suspension referred to in paragraph 1 of this article are subject to *[refer to any provisions of law of the enacting State relating to insolvency that apply to exceptions, limitations, modifications or termination in respect of the stay and suspension referred to in paragraph 1 of this article]*.

3. Paragraph 1 (a) of this article does not affect the right to commence individual actions or proceedings to the extent necessary to preserve a claim against the debtor.

4. Paragraph 1 of this article does not affect the right to request the commencement of a proceeding under *[identify laws of the enacting State relating to insolvency]* or the right to file claims in such a proceeding.

Article 21

Relief that may be granted upon recognition of a foreign proceeding

1. Upon recognition of a foreign proceeding, whether main or non-main, where necessary to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including:

(a) Staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities, to the extent they have not been stayed under paragraph 1 (a) of article 20;

(b) Staying execution against the debtor's assets to the extent it has not been stayed under paragraph 1 (b) of article 20;

(c) Suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under paragraph 1 (c) of article 20;

(d) Providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

(e) Entrusting the administration or realization of all or part of the debtor's assets located in this State to the foreign representative or another person designated by the court;

(f) Extending relief granted under paragraph 1 of article 19;

(g) Granting any additional relief that may be available to *[insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State]* under the laws of this State.

2. Upon recognition of a foreign proceeding, whether main or non-main, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in this State to the foreign representative or another person designated by the court, provided that the court is satisfied that the interests of creditors in this State are adequately protected.

3. In granting relief under this article to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

Article 22

Protection of creditors and other interested persons

1. In granting or denying relief under article 19 or 21, or in modifying or terminating relief under paragraph 3 of this article, the court must be satisfied that the interests of the creditors and other interested persons, including the debtor, are adequately protected.

2. The court may subject relief granted under article 19 or 21 to conditions it considers appropriate.

3. The court may, at the request of the foreign representative or a person affected by relief granted under article 19 or 21, or at its own motion, modify or terminate such relief.

Article 23

Actions to avoid acts detrimental to creditors

1. Upon recognition of a foreign proceeding, the foreign representative has standing to initiate *[refer to the types of actions to avoid or otherwise render ineffective acts detrimental to creditors that are available in this State to a person or body administering a reorganization or liquidation]*.

2. When the foreign proceeding is a foreign non-main proceeding, the court must be satisfied that the action relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding.

Article 24

Intervention by a foreign representative in proceedings in this State

Upon recognition of a foreign proceeding, the foreign representative may, provided the requirements of the law of this State are met, intervene in any proceedings in which the debtor is a party.

CHAPTER IV. COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

Article 25

Cooperation and direct communication between a court of this State and foreign courts or foreign representatives

1. In matters referred to in article 1, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through a *[insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State]*.

2. The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives.

Article 26

Cooperation and direct communication between the *[insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State]* and foreign courts or foreign representatives

1. In matters referred to in article 1, a *[insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State]* shall, in the exercise of its functions and subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

2. The *[insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State]* is entitled, in the exercise of its functions and subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

Article 27

Forms of cooperation

Cooperation referred to in articles 25 and 26 may be implemented by any appropriate means, including:

(a) Appointment of a person or body to act at the direction of the court;

(b) Communication of information by any means considered appropriate by the court;

(c) Coordination of the administration and supervision of the debtor's assets and affairs;

(d) Approval or implementation by courts of agreements concerning the coordination of proceedings;

(e) Coordination of concurrent proceedings regarding the same debtor;

(f) *[The enacting State may wish to list additional forms or examples of cooperation]*.

CHAPTER V. CONCURRENT PROCEEDINGS

Article 28

Commencement of a proceeding under *[identify laws of the enacting State relating to insolvency]* after recognition of a foreign main proceeding

After recognition of a foreign main proceeding, a proceeding under *[identify laws of the enacting State relating to insolvency]* may be commenced only if the debtor has assets in this State; the effects of that proceeding shall be restricted to the assets of the debtor that are located in this State and, to the extent necessary to implement cooperation and coordination under articles 25, 26 and 27, to other assets of the debtor that, under the law of this State, should be administered in that proceeding.

Article 29

Coordination of a proceeding under *[identify laws of the enacting State relating to insolvency]* and a foreign proceeding

Where a foreign proceeding and a proceeding under *[identify laws of the enacting State relating to insolvency]* are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under articles 25, 26 and 27, and the following shall apply:

(a) When the proceeding in this State is taking place at the time the application for recognition of the foreign proceeding is filed,

(i) Any relief granted under article 19 or 21 must be consistent with the proceeding in this State; and

(ii) If the foreign proceeding is recognized in this State as a foreign main proceeding, article 20 does not apply;

(b) When the proceeding in this State commences after recognition, or after the filing of the application for recognition, of the foreign proceeding,

(i) Any relief in effect under article 19 or 21 shall be reviewed by the court and shall be modified or terminated if inconsistent with the proceeding in this State; and

(ii) If the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in paragraph 1 of article 20 shall be modified or terminated pursuant to paragraph 2 of article 20 if inconsistent with the proceeding in this State;

(c) In granting, extending or modifying relief granted to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

Article 30

Coordination of more than one foreign proceeding

In matters referred to in article 1, in respect of more than one foreign proceeding regarding the same debtor, the court shall seek cooperation and coordination under articles 25, 26 and 27, and the following shall apply:

(a) Any relief granted under article 19 or 21 to a representative of a foreign non-main proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding;

(b) If a foreign main proceeding is recognized after recognition, or after the filing of an application for recognition, of a foreign non-main proceeding, any relief in effect under article 19 or 21 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding;

(c) If, after recognition of a foreign non-main proceeding, another foreign non-main proceeding is recognized, the court shall grant, modify or terminate relief for the purpose of facilitating coordination of the proceedings.

Article 31

Presumption of insolvency based on recognition of a foreign main proceeding

In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under *[identify laws of the enacting State relating to insolvency]*, proof that the debtor is insolvent.

Article 32

Rule of payment in concurrent proceedings

Without prejudice to secured claims or rights in rem, a creditor who has received part payment in respect of its claim in a proceeding pursuant to a law relating to insolvency in a foreign State may not receive a payment for the same claim in a proceeding under *[identify laws of the enacting State relating to insolvency]* regarding the same debtor, so long as the payment to the other creditors of the same class is proportionately less than the payment the creditor has already received.

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/52/650
25 November 1997
ENGLISH
ORIGINAL: ARABIC AND ENGLISH

Fifty-second session
Agenda item 149

REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. The item entitled "Report of the Committee on Relations with the Host Country" was included in the provisional agenda of the fifty-second session of the General Assembly pursuant to Assembly resolution 51/163 of 16 December 1996.

2. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 32nd and 34th meetings, on 19 and 21 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.32 and 34).

4. For its consideration of the item, the Committee had before it the report of the Committee on Relations with the Host Country.[1]

5. At the 32nd meeting, on 19 November, the report of the Committee on Relations with the Host Country was introduced by its Chairman.

---

[1] Official Records of the General Assembly, Fifty-second Session, Supplement No. 26 (A/52/26).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/52/L.10 AND REV.1

6. At the 32nd meeting, on 19 November, the representative of Cyprus, on behalf of Bulgaria, Canada, Costa Rica, Côte d'Ivoire and Cyprus, introduced a draft resolution entitled "Report of the Committee on Relations with the Host Country" (A/C.6/52/L.10), which read:

"The General Assembly,

"Having considered the report of the Committee on Relations with the Host Country,[1]

"Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations,[2] and the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,[3] and the responsibilities of the host country,

"Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

"Noting the spirit of cooperation and mutual understanding that has guided the deliberations of the Committee on issues affecting the United Nations community and the host country,

"Taking into account the increase in the profound interest and concern by many Member States in the work of the Committee,

"Considering that meetings of the Committee on Relations with the Host Country and of the Working Group on the use of diplomatic motor vehicles were devoted to the consideration of the item 'Transportation: use of motor vehicles, parking and related matters',

"1. Endorses the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 118 of its report;[1]

"2. Considers that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations is in the interests of the United Nations and all Member States, and requests the host country to continue to take all measures necessary to prevent any interference with the functioning of missions;

"3. Expresses its appreciation for the efforts made by the host country, and hopes that the concerns raised at the meetings of the

---

[2] Resolution 22 A (I).

[3] See resolution 169 (II).

Committee will continue to be resolved in a spirit of cooperation and in accordance with international law;

"4. Welcomes the efforts of the Committee aimed at identifying affordable health care programmes for the diplomatic community;

"5. Notes that during the reporting period the travel controls previously imposed by the host country on staff of certain missions and staff members of the Secretariat of certain nationalities remained in effect, once again urges the host country to consider lifting such travel controls, and, in this regard, also notes the positions of the affected States, of the Secretary-General and of the host country;

"6. Calls upon the host country to review measures and procedures relating to the parking of diplomatic vehicles, with a view to responding to the growing needs of the diplomatic community, and to consult with the Committee on these issues, and considers it important that any new parking regulations to be proposed by the host country to the diplomatic community be worked out in consultation with the Committee on Relations with the Host Country and that such regulations should be fair, balanced, non-discriminatory, in accordance with local and international law and with due regard for diplomatic privileges and immunity;

"7. Requests the Committee to review its membership and to report on the results of the deliberations in the Sixth Committee to the General Assembly at its fifty-third session;

"8. Requests the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country;

"9. Requests the Committee to continue its work, in conformity with General Assembly resolution 2819 (XXVI) of 15 December 1971;

"10. Decides to include in the provisional agenda of its fifty-third session the item entitled 'Report of the Committee on Relations with the Host Country'."

7. At the same meeting, the Committee had before it amendments (A/C.6/52/L.23) to draft resolution A/C.6/52/L.10, submitted by Cuba, by which:

(a) Operative paragraph 7 would read:

"7. Requests Member States to consider reviewing the composition of the Committee on Relations with the Host Country so that the membership of the Committee properly reflects the significant increase in the membership of the United Nations";

(b) Two new operative paragraphs would be added, reading:

"Requests Member States to transmit their views with respect to this matter to the Secretary-General;

"Requests the Secretary-General to present a report on this subject to the General Assembly at its fifty-third session".

8. At the 34th meeting, on 21 November, the representative of Cyprus, on behalf of Bulgaria, Canada, Costa Rica, Côte d'Ivoire and Cyprus, later joined by Spain, introduced a revised draft resolution (A/C.6/52/L.10/Rev.1), submitted on the basis of informal consultations on draft resolution A/C.6/52/L.10 and the amendments to it contained in document A/C.6/52/L.23.

9. The amendments contained in document A/C.6/52/L.23 were not pressed to a decision.

10. At the same meeting, the representative of Cuba orally proposed an amendment to draft resolution A/C.6/52/L.10/Rev.1, by which operative paragraph 7, which had read:

"7. Requests the Committee to review its membership and to report on the results of its deliberations to the Sixth Committee of the General Assembly at its fifty-third session,"

would be replaced by:

"7. Requests the Committee to review its membership and composition, with the participation of observers, to consider proposals regarding its membership and composition, and to report on the results of its deliberations to the Sixth Committee of the General Assembly at its fifty-third session".

11. Also at the same meeting, the amendment proposed orally by Cuba to paragraph 7 of draft resolution A/C.6/52/L.10/Rev.1 was adopted by a recorded vote of 42 to 20, with 48 abstentions. The voting was as follows:

In favour: Algeria, Bahamas, Bahrain, Botswana, Brazil, Brunei Darussalam, Cuba,[4] Djibouti, Dominican Republic, Ecuador, Egypt, Guyana, Haiti, India, Indonesia, Iran (Islamic Republic of), Jamaica, Kenya, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Maldives, Mexico, Namibia, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Sudan, Suriname, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Austria, Bulgaria, Canada, Costa Rica, Côte d'Ivoire, Cyprus, Czech Republic, Fiji, Georgia, Germany, Honduras, Israel, Latvia, Lithuania, Russian Federation, Spain, Ukraine, United

[4] Before the voting machine was locked, the Chairman, in response to a point of order by the delegation of Cuba, announced that Cuba had voted in favour and would be so counted, in spite of a mechanical failure of the voting buttons at the Cuban seat.

Kingdom of Great Britain and Northern Ireland, United States of America, Zimbabwe.[5]

Abstaining: Argentina, Australia, Bangladesh, Belarus, Belgium, Benin, Bolivia, Cameroon, Chile, Colombia, Democratic Republic of the Congo, Denmark, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guinea, Guinea-Bissau, Hungary, Iceland, Ireland, Italy, Japan, Kyrgyzstan, Liechtenstein, Malta, Morocco, Nepal, Netherlands, Nicaragua, Norway, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Sri Lanka, Swaziland, Sweden, the former Yugoslav Republic of Macedonia, Togo.

12. Before the adoption of the amendment, the representatives of the Russian Federation, Costa Rica and Germany made statements in explanation of position (see A/C.6/52/SR.34).

13. Also at its 34th meeting, the Committee adopted draft resolution A/C.6/52/L.10/Rev.1, as orally amended, by 120 votes to none, with 3 abstentions (see para. 15).

14. Following the vote, the representative of the Netherlands made a statement in explanation of position (see A/C.6/52/SR.34).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

15. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the Committee on Relations with the Host Country

The General Assembly,

Having considered the report of the Committee on Relations with the Host Country,[6]

Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations,[7] and the Agreement between the United Nations and the United States of America regarding the

---

[5] The delegation of Zimbabwe subsequently indicated that it had intended to vote in favour.

[6] Official Records of the General Assembly, Fifty-second Session, Supplement No. 26 (A/52/26).

[7] Resolution 22 A (I).

Headquarters of the United Nations,[8] and the responsibilities of the host country,

Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

Noting the spirit of cooperation and mutual understanding that has guided the deliberations of the Committee on issues affecting the United Nations community and the host country,

Taking into account the increase in the profound interest and concern of many Member States as regards the work of the Committee,

Considering that meetings of the Committee and of the working group on the use of diplomatic motor vehicles were devoted to the consideration of the item "Transportation: use of motor vehicles, parking and related matters",

1. Endorses the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 118 of its report;[6]

2. Considers that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations is in the interests of the United Nations and all Member States, and requests the host country to continue to take all measures necessary to prevent any interference with the functioning of missions, and to promote compliance of local authorities with international norms concerning diplomatic privileges and immunities;

3. Expresses its appreciation for the efforts made by the host country, and hopes that the concerns raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law;

4. Welcomes the efforts of the Committee aimed at identifying affordable health care programmes for the diplomatic community;

5. Notes that during the reporting period the travel controls previously imposed by the host country on staff of certain missions and staff members of the Secretariat of certain nationalities remained in effect, again urges the host country to consider lifting such travel controls, and, in this regard, notes the positions of the affected States, of the Secretary-General and of the host country;

6. Calls upon the host country to review measures and procedures relating to the parking of diplomatic vehicles, with a view to responding to the growing needs of the diplomatic community, and to consult with the Committee on these issues, and requests the host country to take steps in conjunction with the competent authorities to resolve the problem of parking of diplomatic vehicles,

---

[8] See resolution 169 (II).

in order to maintain appropriate conditions for the functioning of the delegations and missions accredited to the United Nations in a manner that is fair, non-discriminatory, efficient and consistent with international law, with due regard to diplomatic privileges and immunities and to the proposals made in the Committee and its working group on the use of diplomatic motor vehicles;

7. Requests the Committee to review its membership and composition, with the participation of observers, to consider proposals regarding its membership and composition, and to report on the results of its deliberations to the Sixth Committee of the General Assembly at its fifty-third session;

8. Requests the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country;

9. Requests the Committee to continue its work, in conformity with General Assembly resolution 2819 (XXVI) of 15 December 1971;

10. Decides to include in the provisional agenda of its fifty-third session the item entitled "Report of the Committee on Relations with the Host Country".

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/52/651
25 November 1997
ENGLISH
ORIGINAL: ARABIC AND ENGLISH

Fifty-second session
Agenda item 150

ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. The item entitled "Establishment of an international criminal court" was included in the provisional agenda of the fifty-second session of the General Assembly pursuant to Assembly resolution 51/207 of 17 December 1996.

2. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 11th to 15th and 32nd meetings, from 21 to 24 October and on 19 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.11-15 and 32).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Letter dated 1 October 1997 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General, transmitting the communiqué of the Meeting of Ministers for Foreign Affairs and Heads of Delegation of the Movement of Non-Aligned Countries to the fifty-second session of the General Assembly, held in New York on 25 September 1997 (A/52/447-S/1997/775);

(b) Decisions adopted by the Preparatory Committee on the Establishment of an International Criminal Court at its two sessions held in 1997 pursuant to resolution 51/207;[1]

5. At the 11th meeting, on 21 October, the Chairman of the Preparatory Committee on the Establishment of an International Criminal Court introduced the decisions adopted by the Preparatory Committee at its two sessions held in 1997.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/52/L.16

6. At the 32nd meeting, on 19 November, the representative of Germany, on behalf of the Chairman, introduced a draft resolution entitled "Establishment of an international criminal court" (A/C.6/52/L.16), and orally revised it as follows:

(a) In operative paragraph 8 the words "to invite the Conference" were replaced with the words "to invite to the Conference";

(b) At the end of footnote 3 the phrase "51/1 and 51/6" was replaced with the phrase "51/1, 51/6 and 51/204".

7. At the same meeting, before the adoption of the draft resolution, the Secretary of the Committee made a statement (see A/C.6/52/SR.32).

8. Also at the same meeting, the Committee adopted draft resolution A/C.6/52/L.16, as orally revised, without a vote (see para. 9).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Establishment of an international criminal court

The General Assembly,

Recalling its resolutions 47/33 of 25 November 1992, 48/31 of 9 December 1993, 49/53 of 9 December 1994 and 50/46 of 11 December 1995,

Considering that, in its resolution 51/207 of 17 December 1996, it decided to reaffirm the mandate of the Preparatory Committee on the Establishment of an International Criminal Court, and decided also that the Preparatory Committee should meet from 11 to 21 February, 4 to 15 August and 1 to 12 December 1997, and from 16 March to 3 April 1998, in order to complete the drafting of a widely acceptable consolidated text of a convention, to be submitted to a diplomatic conference of plenipotentiaries,

---

[1] A/AC.249/1997/L.5 and L.18/Rev.1.

Recalling that, in its resolution 51/207, it further decided that a diplomatic conference of plenipotentiaries should be held in 1998, with a view to finalizing and adopting a convention on the establishment of an international criminal court,

Recognizing the importance of concluding the work of the conference through the promotion of general agreement on matters of substance,

Noting that, at its fifty-first meeting, on 21 February 1997,[2] the Preparatory Committee welcomed the offer by the Government of Italy to hold the diplomatic conference at Rome and recommended to the General Assembly that, pursuant to Assembly resolution 51/207 and after consideration by the Committee on Conferences, a decision in accordance with the offer should be made when dealing with the necessary arrangements for the conference, on the understanding that the organization of the conference at Rome would proceed on the basis of the usual practice concerning the funding of such events taking place away from United Nations Headquarters or other United Nations offices,

Taking note of the report of the Committee on Conferences,[3] in which the Committee recommended to the General Assembly that it should adopt the draft biennial calendar of conferences and meetings for 1998-1999 contained in the annex to the report,

Welcoming the steps undertaken, and the suggestions made, by the Government of Italy following its offer to host a conference on the establishment of an international criminal court in June 1998, including the proposal to hold the conference during the period from 15 June to 17 July 1998 at the headquarters of the Food and Agriculture Organization of the United Nations at Rome,

1. Accepts with deep appreciation the generous offer of the Government of Italy to act as host to the diplomatic conference of plenipotentiaries on the establishment of an international criminal court;

2. Requests the Preparatory Committee on the Establishment of an International Criminal Court to continue its work in accordance with General Assembly resolution 51/207 and, at the end of its sessions, to transmit to the conference the text of a draft convention on the establishment of an international criminal court prepared in accordance with its mandate;

3. Decides that the United Nations Conference of Plenipotentiaries on the Establishment of an International Criminal Court, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, shall be held at Rome from 15 June to 17 July 1998, with a view to finalizing and adopting a convention on the establishment of an international criminal court, and requests the Secretary-General to invite those States to the Conference;

---

[2] A/AC.249/1997/L.5, annex III.

[3] A/52/32 and Corr.1.

4. Requests the Secretary-General to prepare the text of the draft rules of procedure of the Conference, to be submitted to the Preparatory Committee for its consideration and recommendations to the Conference, with a view to the adoption of such rules by the Conference in accordance with the rules of procedure of the General Assembly, and to provide for consultations on the organization and methods of work of the Conference, including rules of procedure, prior to the convening of the last session of the Preparatory Committee;

5. Urges participation in the Conference by the largest number of States so as to promote universal support for an international criminal court;

6. Notes with appreciation the establishment by the Secretary-General, pursuant to General Assembly resolution 51/207, of a Trust Fund for the participation of the least developed countries in the work of the Preparatory Committee and in the Conference, welcomes the decision by a number of States to make contributions to the Trust Fund, and encourages States to contribute voluntarily to it;

7. Requests the Secretary-General to establish a trust fund for voluntary contributions towards meeting the cost of participation in the work of the Preparatory Committee and the Conference of those developing countries not covered by the Trust Fund referred to in paragraph 6, and invites States to contribute voluntarily to this trust fund;

8. Also requests the Secretary-General to invite to the Conference representatives of organizations and other entities that have received a standing invitation from the General Assembly pursuant to its relevant resolutions[1] to participate, in the capacity of observers, in its sessions and work, on the understanding that such representatives would participate in the Conference in that capacity, and to invite, as observers to the Conference, representatives of interested regional intergovernmental organizations and other interested international bodies, including the International Tribunals for the Former Yugoslavia and for Rwanda;

9. Further requests the Secretary-General to invite non-governmental organizations, accredited by the Preparatory Committee with due regard to the provisions of section VII of Economic and Social Council resolution 1996/31 of 25 July 1996, and in particular to the relevance of their activities to the work of the Conference, to participate in the Conference, along the lines followed in the Preparatory Committee, on the understanding that participation means attending meetings of its plenary and, unless otherwise decided by the Conference in specific situations, formal meetings of its subsidiary bodies except the drafting group, receiving copies of the official documents, making available their materials to delegates and addressing, through a limited number

---

[1] General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3209 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 31/152, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 43/177, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6 and 51/204.

of their representatives, its opening and/or closing sessions, as appropriate, in accordance with the rules of procedure to be adopted by the Conference;

10. Decides to include in the provisional agenda of its fifty-third session the item entitled 'Establishment of an international criminal court'.

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/52/652
25 November 1997
ENGLISH
ORIGINAL: ARABIC AND ENGLISH

Fifty-second session
Agenda item 151

REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the fifty-second session of the General Assembly pursuant to Assembly resolution 51/209 of 17 December 1996.

2. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 5th to 8th and 34th meetings, from 8 to 14 October and on 21 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.5-8 and 34).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[1]

[1] Official Records of the General Assembly, Fifty-second Session, Supplement No. 33 and corrigendum (A/52/33 and Corr.1).

(b) Report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions (A/52/308);

(c) Report of the Secretary-General on the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council (A/52/317 and Corr.1);

(d) Letter dated 19 June 1997 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/52/189);

(e) Letter dated 1 October 1997 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General, transmitting the communiqué of the Meeting of Ministers for Foreign Affairs and Heads of Delegation of the Movement of Non-Aligned Countries to the fifty-second session of the General Assembly, held in New York on 25 September 1997.

5. At its 11th meeting, on 21 October, the Committee decided to establish an informal Working Group on the question of the implementation of Charter provisions relating to third States affected by Security Council sanctions and elected Mr. Craig J. Daniell (South Africa), Vice-Chairman of the Sixth Committee, as Chairmar of the Working Group. The Working Group held five meetings between 24 October and 18 November.

6. At the 34th meeting, on 21 November, the Chairman of the Working Group presented an oral report on the work of the Working Group (see A/C.6/52/SR.34).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.6/52/L.9 and Corr.1

7. At the 34th meeting, on 21 November, the representative of Egypt, on behalf of the Czech Republic, Egypt, Portugal, Romania, Slovakia, Tunisia, Uruguay and Venezuela, later joined by Brazil, Finland, Indonesia, Namibia, the Philippines and Ukraine, introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/52/L.9 and Corr.1).

8. The Secretary of the Committee made a statement on the implementation of operative paragraph 5 of the draft resolution (see A/C.6/52/SR.34).

9. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.9 and Corr.1 without a vote (see para. 16, draft resolution I).

B. Draft resolution A/C.6/52/L.14

10. At the 34th meeting, on 21 November, the Chairman of the Working Group introduced a draft resolution entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by

the application of sanctions" (A/C.6/52/L.14), which had been proposed by the Chairman of the Committee.

11. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.14 without a vote (see para. 16, draft resolution II).

12. The representative of Lebanon made a statement in explanation of position (see A/C.6/52/SR.34).

C. Draft resolution A/C.6/52/L.8

13. At its 34th meeting, on 21 November, the Committee had before it a draft resolution entitled "Amendment to rule 103 of the rules of procedure of the General Assembly" (A/C.6/52/L.8), which was recommended by the Special Committee.

14. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.8 without a vote (see para. 16, draft resolution III).

15. The representatives of Israel and Lebanon made statements in explanation of position (see A/C.6/52/SR.34).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

16. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council,[2]

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolutions 51/241 of 31 July 1997 on the strengthening of the United Nations system and 51/242 of 15 September 1997 entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations which are annexed to that resolution,

Recalling further that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Noting with satisfaction the increase in the volume of cases before the Court,

Considering the desirability of finding practical ways and means of strengthening the Court,

Taking note of the report of the Secretary-General on the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council,[3]

Recalling its resolution 51/209 of 17 December 1996,

Having considered the report of the Special Committee on the work of its session held in 1997,[4]

1. Takes note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[4]

2. Decides that the Special Committee will hold its next session from 26 January to 6 February 1998;

3. Requests the Special Committee, at its session in 1998, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to

---

[2] Official Records of the General Assembly, Fifty-first Session, Supplement No. 47 (A/51/47).

[3] A/52/317 and Corr.1.

[4] Official Records of the General Assembly, Fifty-second Session, Supplement No. 33 and corrigendum (A/52/33 and Corr. 1).

consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 1998, including the revised proposal on the strengthening of the role of the United Nations in the maintenance of international peace and security,[5] the revised working paper on the strengthening of the role of the Organization and enhancing its effectiveness,[6] the revised working paper entitled "Some ideas on the basic conditions and criteria for imposing and implementing sanctions and other enforcement measures"[7] and the working paper on the draft declaration on the basic principles and criteria for the work of the United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts;[8]

(b) To continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration the reports of the Secretary-General,[9] the proposals submitted on this subject, the debate on this question which was held in the Sixth Committee at the fifty-second session of the General Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242, and also the implementation of the provisions of General Assembly resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996 and 52/... of ... December 1997;[10]

(c) To continue its work on the question of the peaceful settlement of disputes between States and, in this context, to continue its consideration of proposals relating to the peaceful settlement of disputes between States, including the proposal on the establishment of a dispute settlement service offering or responding with its services early in disputes and those proposals relating to the enhancement of the role of the International Court of Justice;

(d) To continue to consider proposals concerning the Trusteeship Council in the light of the report of the Secretary-General submitted in accordance with resolution 50/55,[11] the report of the Secretary-General entitled "Renewing the

---

[5] Ibid., Fifty-first Session, Supplement No. 33 (A/51/33), para. 56.

[6] Ibid., Fifty-second Session, Supplement No. 33 and corrigendum (A/52/33 and Corr. 1), para. 59.

[7] Ibid., para. 29.

[8] Ibid., Fifty-first Session, Supplement No. 33 (A/51/33), para. 128.

[9] A/48/573-S/26705 (see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993), A/49/356, A/50/60-S/1995/1 (see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995), A/50/423, A/50/361, A/51/317 and A/52/308.

[10] Draft resolution II below.

[11] A/50/1011.

United Nations: a programme for reform"[12] and the views expressed by States on this subject during the fifty-second session of the General Assembly;

4. Invites Member States, the States parties to the Statute of the International Court of Justice and the International Court of Justice if it so desires, to present, before the fifty-third session of the General Assembly, their comments and observations on the consequences that the increase in the volume of cases before the Court has on its operation, on the understanding that whatever action may be taken as a result of this invitation will have no implications for any changes in the Charter of the United Nations or the Statute of the International Court of Justice;

5. Requests the Secretary-General, taking into account the views expressed and the practical suggestions made during the debate held within the framework of the Sixth Committee, to make every effort to implement in a timely manner the steps proposed in paragraph 59 of his report[3] regarding the preparation and publication of the supplements to the Repertoire of the Practice of the Security Council and the Repertory of Practice of United Nations Organs with a view to updating them and to submit a progress report on the matter to the General Assembly at its fifty-third session;

6. Invites the Special Committee at its session in 1998 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations, to discuss how to offer its assistance to the working groups of the General Assembly in this field and, in this regard, to consider ways and means of improving coordination between the Special Committee and other working groups dealing with the reform of the Organization, including the role of the Chairperson of the Special Committee for this purpose;

7. Requests the Special Committee to submit a report on its work to the General Assembly at the fifty-third session;

8. Decides to include in the provisional agenda of its fifty-third session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

DRAFT RESOLUTION II

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

The General Assembly,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of

---

[12] A/51/950 and Add.1-6.

Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recognizing the desirability of the consideration of further appropriate procedures for consultations to deal in a more effective manner with the problems referred to in Article 50 of the Charter,

Recalling:

(a) The report of the Secretary-General entitled "An Agenda for Peace",[13] in particular paragraph 41 thereof;

(b) Its resolution 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", its resolution 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof entitled "Special economic problems arising from the implementation of preventive or enforcement measures", its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", in particular annex II thereof, entitled "Question of sanctions imposed by the United Nations";

(c) The position paper of the Secretary-General entitled "Supplement to an Agenda for Peace";[14]

(d) The statement by the President of the Security Council of 22 February 1995;[15]

(e) The report of the Secretary-General[16] prepared pursuant to the note by the President of the Security Council[17] regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter;

---

[13] A/47/277-S/24111 (see Official Records of the Security Council, Forty-seventh Year, Supplement for April, May and June 1992).

[14] A/50/60-S/1995/1 (see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995).

[15] S/PRST/1995/9; see Official Records of the Security Council, Fiftieth Year, Resolutions and Decisions of the Security Council, 1995.

[16] A/48/573-S/26705 (see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993).

[17] See Official Records of the Security Council, Forty-seventh Year, Supplement for October, November and December 1992, document S/25036.

(f) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro)[18] and General Assembly resolutions 48/210 of 21 December 1993, 49/21 A of 2 December 1994, 50/58 E of 12 December 1995 and 51/30 A of 5 December 1996;

(g) The 1994,[19] 1995,[20] 1996[21] and 1997[22] reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;

(h) The reports of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,[23]

Taking note of the report of the Secretary-General submitted in accordance with General Assembly resolution 51/208 of 17 December 1996,[24]

Recalling that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly and its subsidiary organs and the Security Council,

Recalling also the measures taken by the Security Council in accordance with the statement by the President of the Security Council of 16 December 1994[25] that, as part of the Council's effort to improve the flow of information and the exchange of ideas between members of the Council and other States Members of the United Nations, there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

Stressing that, in the formulation of sanctions regimes, due account should be taken of the potential effects of sanctions on third States,

---

[18] A/49/356, A/50/423 and A/51/356.

[19] Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33 (A/49/33).

[20] Ibid., Fiftieth Session, Supplement No. 33 (A/50/33).

[21] Ibid., Fifty-first Session, Supplement No. 33 (A/51/33).

[22] Ibid., Fifty-second Session, Supplement No. 33 and corrigendum (A/52/33 and Corr.1).

[23] A/50/361, A/51/317 and A/52/308.

[24] A/52/308.

[25] S/PRST/1994/81; see Official Records of the Security Council, Forty-ninth Year, Resolutions and Decisions of the Security Council, 1994, p. 132.

Stressing also, in this context, the powers of the Security Council under Chapter VII of the Charter and the Council's primary responsibility under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

Recalling that, under Article 31 of the Charter, any Member of the United Nations that is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Council whenever the latter considers that the interests of that Member are specially affected,

Recognizing that the imposition of sanctions under Chapter VII has been causing special economic problems in third States and that it is necessary to intensify efforts to address those problems,

Recognizing also that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council,

Recognizing further that the international community at large and, in particular, international institutions involved in providing economic and financial assistance should continue to take into account and address in a more effective manner the special economic problems of affected third States arising from the carrying out of preventive or enforcement measures taken by the Security Council under Chapter VII of the Charter, in view of their magnitude and of the adverse impact on the economy of those States,

Recalling the provisions of resolutions 50/51 of 11 December 1995 and 51/208 of 17 December 1996,

1. Renews its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected countries for assistance;

2. Welcomes once again the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51 and aimed at increasing the effectiveness and transparency of the sanctions committees and invites the Council to implement those measures, and strongly recommends that the Council continue its efforts further to enhance the functioning of those committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

3. Requests the Secretary-General to pursue implementation of the provisions of General Assembly resolution 50/51 related to the possible guidelines that might be adopted on technical procedures to be used by the

appropriate parts of the Secretariat, and paragraphs 4, 5 and 6 of resolution 51/208, and to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to initiate action in order to explore innovative and practical measures of assistance to the affected third States;

4. Endorses the proposal of the Secretary-General that an ad hoc expert group meeting be convened in the first half of 1998 with a view to developing a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures and in this connection requests that due regard be given by the expert group to the particular problems and needs of developing countries confronted by the special economic problems arising from carrying out enforcement measures and also endorses the recommendation of the Secretary-General that the expert group explore innovative and practical measures of assistance that could be provided by the relevant organizations both within and outside the United Nations system to the affected third States and requests the Secretary-General to submit a report on the results of the expert group meeting to the General Assembly at its fifty-third session;

5. Reaffirms the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

6. Invites the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

7. Requests the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 1998, to continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration all the related reports of the Secretary-

General,[26] the proposals submitted on this subject, the debate on this question which took place in the Sixth Committee at the fifty-second session of the General Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242, and also the implementation of the provisions of General Assembly resolutions 50/51 and 51/208 as well as the provisions of the present resolution;

8. Requests the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its fifty-third session.

DRAFT RESOLUTION III

Amendment to rule 103 of the rules of procedure of the General Assembly

The General Assembly,

Recalling its resolution 2837 (XXVI) of 17 December 1971, in particular paragraph 42 of its annex II entitled "Conclusions of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly", reproduced as annex V to the rules of procedure of the General Assembly,

Taking into account the increasing workload of the Main Committees of the General Assembly,

Considering that all regional groups should be represented in the Bureau of each of the Main Committees,

1. Decides to amend the first sentence of rule 103 of the rules of procedure of the General Assembly to read: "Each Main Committee shall elect a Chairman, three Vice-Chairmen and a Rapporteur";

2. Also decides that this amendment shall take effect as from the fifty-third session of the General Assembly.

---

[26] A/48/573-S/26705 (see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993), A/49/356, A/50/60-S/1995/1 (see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995), A/50/361, A/50/423, A/51/317 and A/52/308.